

HB 321 -- Second Injury Fund

Sponsor: Haahr

This bill changes the laws regarding the Second Injury Fund. In its main provisions, the bill:

(1) Authorizes any entity required to pay the annual surcharge to the second injury fund under Section 287.715, RSMo, to claim a credit against any income tax owed, other than withholding tax, in an amount specified in the bill;

(2) Repeals the current \$40 per week benefit paid out of the fund to an injured employee who is receiving physical rehabilitation;

(3) Specifies that all claims for an injury causing permanent disability where there has been a previous disability and the injury occurred before July 1, 2013, will be compensated under the current second injury fund laws and must be filed by July 1, 2015;

(4) Specifies that for injuries occurring on or after July 1, 2013, compensation for the balance of the combined permanent disability will not be payable from the fund but will be payable by the employer or its insurer, in addition to the permanent disability attributable to the last injury alone;

(5) Allows the State Treasurer, with the advice and consent of the Attorney General, to enter into compromise settlements with dependents of claimants arising from the Missouri Supreme Court's decision in Schoemehl v. Treasurer of Missouri, 217 S.W.3d 900 (Mo. 2007);

(6) Specifies that payments from the fund for the injury or death of an employee of an uninsured employer that occurred on or after July 1, 2013, will be eliminated;

(7) Requires an actuarial study of the fund to be completed by July 1, 2014 and every year thereafter until the fund has no liabilities. Currently, the actuarial study is required every three years;

(8) Establishes the priority for paying any liabilities of the fund as follows:

(a) Expenses relating to the legal defense of the fund;

(b) Permanent total disability awards in the order in which the claims are settled or finally adjudicated;

(c) Permanent partial disability awards in the order in which the claims are settled or finally adjudicated; and

(d) Medical expenses incurred prior to July 1, 2013;

(9) Specifies that all claims for injury causing permanent disability where there has been a previous disability that occurred on or after July 1, 2013, will be subject to adjudication under the workers' compensation system;

(10) Establishes a supplemental surcharge on employers not to exceed 3% to financially maintain the fund when the Director of the Division of Workers' Compensation within the Department of Labor and Industrial Relations determines that usual collections are inadequate;

(11) Specifies that when all liabilities against the fund have ended, the director must continue to collect the surcharge for the remainder of the calendar year and then, on January 1, transfer any remaining balance to the workers' compensation fund; and

(12) Specifies that once the number of pending cases is reduced to the point where the Attorney General's staff defending the fund can be reduced, the Attorney General must begin reducing his or her staff in proportion to the number of pending cases that remain.

The provisions of the bill regarding tax credits and the supplemental surcharge will expire October 31 six years after the effective date.

The bill contains an emergency clause.